

INFORMATION LETTER

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NATIONAL CANNERS ASSOCIATION

For Members
Only

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Status of Emergency Powers under Present Law

Existing law prohibits price and wage stabilization. However, the law would permit the President to issue set-aside orders and to regulate the use of critical materials and to exercise certain other emergency powers.

Portions of the Defense Production Act of 1950 remain in effect, the most recent extension having been approved by the President June 30, 1960, as P.L. 86-560. Titles I, III, and VII of that Act were continued for another two years—to June 30, 1962—in order to continue executive authority needed to assure performance on contracts for defense, atomic energy and space programs.

The remaining powers of the President under the Defense Production Act include power to establish priorities for defense contracts; limited power to allocate materials for defense purposes; authority to guarantee loans made in connection with defense contracts; authority to make loans and purchases to build up defense capacity and assure adequate supplies of defense materials; authority for businessmen to cooperate

voluntarily in meeting defense needs without violating antitrust laws; and provision for establishment of a reserve of trained executives to fill government positions in time of mobilization.

Under the Act, controls can be used in the civilian market only if the President finds that a material is scarce and critical and that requirements of national defense cannot be met.

Among the controls for which statutory authority is lacking, in addition to price and wage controls, are requisition and condemnation, settlement of labor disputes, and control of consumer and real estate credit.

The set-aside orders which were used during the Korean war have been reviewed from time to time by the USDA. However, USDA has not been asked by the Defense Department for any assistance in obtaining food supplies.

Three years ago the Commerce Department prepared, on a stand-by basis, an order intended to establish quotas on the use of containers for products other than seasonal canned foods. With regard to the possibility of such controls at this time, one official pointed out that both the steel and tin industries are operating well below their capacities and that controls would not appear to be in order, therefore.

Labor Department Establishes Uniform Minimum Wage Rates under Walsh-Healey Public Contracts Act

On August 8 the Department of Labor issued a notice proposing that, effective September 3, 1961, the prevailing minimum wage that will be applicable to all operations on gov-

ernment contracts covered by the Walsh-Healey Public Contracts Act will be \$1.15 per hour.

Up to this time, no so-called prevailing minimum wage has been applicable to the canning industry for Walsh-Healey purposes. The prevailing wage to be established, and the base for any required overtime on any work on any government contract covered by the Walsh-Healey Act, is the same as the minimum hourly rate to be effective September 3, 1961, under the Fair Labor Standards Act, as amended last May.

Only in those instances in which a canner is exempt from the minimum wage requirements of the Fair Labor Standards Act, under some applicable exemption, e.g., because his operations are within the "area of production," and only to the extent that such operations fall under the requirements of the Public Contracts Act, would the proposal appear to make any changes in the canning industry.

As noted, objections are required to be filed within 20 days following August 8, and must specify the locality concerned and the minimum wages less than \$1.15 per hour which are

N.C.A. Home Economists Meet With Food Leaders

Katherine R. Smith, Director of the N.C.A. Consumer Service Division, and Viola M. English, staff assistant, have participated recently in a number of professional and industry conferences on foods and food service.

They took part in the workshop conference of the Pennsylvania Institution Food Service at Kutztown State College, Kutztown, Pa. This three-day meeting, July 24-26, was attended by food service administrators from 68 state institutions and various state department officials. The food services represented included colleges, hospitals, corrective institutions, and other state operated institutions. Attendance was approximately 200.

Miss Smith and Miss English were program participants on July 24, their subject being "Utilization of Canned

Foods . . . from the standpoint of economy, work reduction, and eating satisfaction."

The advisory committee for the National Youthpower Congress met in Chicago July 26. Miss Smith represented the N.C.A. on the committee.

The annual convention of the American Food Service Association, held in Denver from July 30 through August 3, had a total attendance of about 2,800, including state, city and school supervisors and managers, federal and state government administrators, college and business nutritionists, dietitians, and other foods people who work in the field of school lunch service.

Miss Smith and Miss English attended the meeting. Also, they held individual conferences with school lunch administrators, newspaper food editors, and national institutional magazine food editors.

asserted to be prevailing in such locality.

Following is the text of the announcement, as published in the *Federal Register* of August 8:

DEPARTMENT OF LABOR
Division of Public Contracts
[41 CFR 50-202]

MINIMUM WAGE DETERMINATIONS

Adjustment To Conform to Fair Labor Standards Amendments of 1961

Some of the prevailing minimum wage determinations for particular industries currently in effect under section 1(b) of the Walsh-Healey Public Contracts Act as amended (41 U.S.C. 35 et seq.) provide minimum wages higher than \$1.15 per hour. Other such determinations, based on evidence now substantially outdated, provide minimum wages of less than \$1.15 per hour (41 CFR 50-202). There are also groups of industries which manufacture or furnish materials, supplies, articles, or equipment used in the performance of contracts subject to the Act in which there is no minimum wage protection of the type contemplated by the Act, because no wage determination has been made.

Effective September 3, 1961, the Fair Labor Standards Amendments of 1961 (P.L. 87-30, 87th Cong., May 5, 1961) require the payment of a minimum wage of not less than \$1.15 an hour by every employer to each of his employees who is engaged in commerce or in the production of goods for commerce (as those terms are broadly defined in that Act) who does not come within one of its specific exceptions from that requirement. Based upon legal and economic data obtained in over twenty-two years of investigation and litigation, including administration and enforcement of four previous statutory minimum wage increases under the Fair Labor Standards Act of 1938, economic studies, statutory reports to the Congress, and testimony, findings, and reports in administrative and legislative proceedings, I do hereby take official notice, under section 7(d) of the Administrative Procedure Act (5 U.S.C. 1006(d)), that the application of, and compliance with, this requirement is such as to raise to \$1.15 per hour any level of lower minimum wages prevailing in any of the groups of industries currently operating in any locality in which materials, supplies, articles, or equipment are to be manufactured or furnished under any contracts subject to the Walsh-Healey Public Contracts Act.

Accordingly, I propose to make a final prevailing minimum wage determination under section 1(b) of the Walsh-Healey Public Contracts Act (41 U.S.C. 35(b)) for effect as to all contracts subject to the Public Contracts Act, bids for which are invited, offers for which are solicited, or nego-

tiations otherwise commenced on or after September 3, 1961, that the prevailing minimum wage is \$1.15 per hour in all those groups of industries currently operating in each locality in which the materials, supplies, articles, or equipment are to be manufactured or furnished under such contracts, except those particular or similar industries for which minimum wage determinations higher than \$1.15 per hour will have been made. Under this proposal, provision will be made for the employment of learners at lesser rates to the same extent such employment is permitted under the Fair Labor Standards Act. Appropriate editorial revision of 41 CFR Part 50-202 will also be made. This proposal is not intended as a substitute for, or a replacement of, any portion of the program for making separate minimum wage determinations for particular or similar industries upon evidence of prevailing minimum wages separately prepared for each.

Any person adversely affected or aggrieved by this proposal (who shall be deemed to include any manufacturer of, or regular dealer in, materials, supplies, articles, or equipment purchased or to be purchased by the Government from any source, who is in any industry to which this proposal is applicable, and any employee or representative of employees of any such person) shall have a hearing, as provided in section 10(b) of the Act (41 U.S.C. 43a(b)), and an opportunity to make a showing contrary to the facts herein officially noticed, as provided in section 7(d) of the Administrative Procedure Act (5 U.S.C. 1006(d)) upon timely application as herein provided.

Such application must be in writing, filed in quadruplicate with the Chief Hearing Examiner, U. S. Department of Labor, Washington 25, D.C., within twenty days after this notice is filed for publication with the Office of the Federal Register. It shall define precisely each industry and each locality in such industry as to which the applicant will make such a showing and state the minimum wages he will show to be prevailing there. Each copy of

such application shall have attached a copy of each document the applicant intends to introduce in evidence at the hearing, an identification of each witness he intends to call, a summary of the testimony he expects to develop from each such witness, the name and address of the person selected to present such evidence, and his estimate of the time such presentation will require. The issues at any such hearing shall be limited to those presented in any such application or applications. The time and place of hearing will be published in the *Federal Register*, if, and after, applications are received. The procedure will be governed by sections 7 and 8 of the Administrative Procedure Act (5 U.S.C. 1006 and 1007), 41 CFR Part 50-203, Subpart C, and the applicable provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq.).

Signed at Washington, D.C., this 2d day of June 1961.

ARTHUR J. GOLDBERG,
Secretary of Labor.

**N.C.A. Sanitation Conferences
To Be Held in Florida**

Two Sanitation and Processing Conferences will be held in Florida in September with N.C.A. sponsorship. The first will be held in Orlando September 23 with joint sponsorship by the Florida Vegetable Canners Association, and the one-day program will be repeated in Winter Haven September 25-27 with joint sponsorship of the Florida Canners Association.

Topics to be discussed are the Food and Drug law, prevention of product contamination, the relationship of sanitation, safety and fire prevention, the application of bacteriology to canning sanitation and processing, waste control, and the plant cleaning problem.

The program will be presented by J. W. Bell and C. W. Bohrer of the N.C.A. Washington Laboratory.

Sweet Potato Process Adopted

The N.C.A. Processing Committee on Foods in Metal Containers has voted to include the process for No. 3 squat cans of vacuum pack sweet potatoes in the next edition of Bulletin 26-L. This decision reflects the result of experimental studies conducted on this style of pack since 1937.

The process and footnote, which may be inserted on page 36 of Bulletin

26-L, Eighth Edition, are as follows:

Potatoes, sweet, vacuum pack (f)

Can Name	Dimensions	Initial temperature Deg. F.	Time at 240° F. Min.
No. 3 squat . . .	404 x 307	70-100	45

(f) The process given is dependent on closing the cans at a minimum machine vacuum of 23 inches.

Legislative Proposals in the 87th Congress

This is a report on the status of bills introduced in the first session of the 87th Congress which may be of interest to canners. Unless otherwise noted, no action has been taken. (Bill numbers and the Committees to which they have been referred are indicated in italics.)

Antitrust Laws

S. 11 (Kefauver) would amend the Clayton Act, as amended by the Robinson-Patman Act, to restrict the "good faith" defense against a charge of price discrimination; *Judiciary*.

H.R. 2882 (Celler) and similar bills to require prior notification of corporate mergers and acquisitions, were the subject of hearings in April and May by the *Antitrust Subcommittee*.

H.R. 127 (Patman), to prohibit sales "at an unreasonably low price," and *H.R. 1233* (Steed), to provide for the issuance of temporary cease and desist orders to prevent certain acts and practices pending completion of FTC proceedings, as well as other pending bills on these subjects, will be the subject of hearings Aug. 22-23 by the *Commerce Committee*.

Consumer Interests

S. 1688 (Kefauver et al.) would create a Department of Consumers to which would be transferred the FDA and certain components of the USDA, Labor Dept. and Commerce Dept.; *Government Operations*.

S. Res. 115 (Neuberger et al.) would create a Select Committee on Consumer Interests; *Government Operations*.

S. Res. 119 (Javits et al.) would establish a Select Committee on Consumers; *Banking*.

H. Res. 240 (Anfuso) and companion proposals to create a select committee "to conduct studies and investigations of the problems of consumers" were tabled July 19 by the *Rules Committee*.

Co-op Taxation

H.R. 5775 (Davis, Tenn.) would "provide tax equity through the taxation of cooperative corporations and provide tax credits for recipients of dividends from genuine cooperatives;" *Ways and Means*.

Emergency Food Supplies

S. 2328 (Sparkman and Hill), to establish survival depots and stock them with canned foods and other items, is pending before the *Armed Services Committee*.

Factory Inspection

H.R. 1235 (Sullivan), to strengthen the factory inspection authority of the FDA, and for other purposes, is pending before the *Commerce Committee*.

Farm Labor

H.R. 2010 (Gathings), to extend the Mexican farm labor program for two years, was passed by the House May 11 and reported to the Senate July 25 by the *Agriculture Committee*. The N.C.A. filed statements in the House and Senate supporting the extension of the program.

On Aug. 9 the *Senate Labor Committee* reported the following bills relating to the problems of migratory farmworkers, with amendments:

S. 1123, to curtail the use of child labor in agriculture;

S. 1124, to provide federal assistance for improving educational opportunities for children of migratory farmworkers;

S. 1126, to require federal registration of contractors of migratory farmworkers;

S. 1130, to authorize grants for improving health services for domestic migratory farmworkers; and

S. 1132, to establish a National Advisory Council on Migratory Labor.

Hearings on *S. 1129* (Williams, N.J.), to authorize the Secretary of Labor to regulate the recruitment, transportation and distribution of agricultural workers, were held May 17-18 by the *Senate Subcommittee on Migratory Labor*.

Hearings on *S. 1127* (Williams, N.J.) and *S. 1249* (Holland) to help provide housing for domestic farm labor, were held May 31 and June 1 by the *Senate Subcommittee on Housing*.

H.R. 7812 (Zelenko), to require federal registration of contractors of migratory farmworkers, was reported to the House July 19 by the *Labor Committee*.

H.R. 8270 (Zelenko), to limit the employment of child labor in agriculture, was considered in executive session by the *Labor Committee* Aug. 10.

Fishery Products

S. 901 (Magnuson) to establish a national 10-year program of oceanographic research and surveys, was passed by the Senate, with amendments, July 28 and has been referred to the *Fisheries Committee*. The N.C.A. testified March 17 in support of the bill's objectives. *H.R. 4276* (Geo. P. Miller, Calif.), to establish a National Oceanographic Council, was the subject of hearings June 19-23 by the *House Subcommittee on Oceanography*. The N.C.A. submitted a statement in support of the bill's objectives.

H.R. 6845 (Geo. P. Miller), to expand the functions of the Coast Guard to include oceanographic research, was passed by the Senate, with an amendment, June 12 and sent back to the House, which had passed it June 5. The bill has been referred to a conference committee.

S. 1230 (Gruening et al.), to re-apportion Saltonstall-Kennedy funds and provide additional federal assistance to the states for rehabilitation and development of fishery resources, was the subject of a hearing June 15 by the *Commerce Committee*. *H.R. 6892* (Colmer), a companion bill, is pending before the *Subcommittee on Fisheries*.

H.R. 6168 (Boggs) and companion bills to impose a duty on shrimps and provide for duty-free entry of unprocessed shrimps on a quota basis, were the subject of a hearing Aug. 8 by the *Ways and Means Committee*.

S. 1222 (Yarborough-Smathers) provides that a U. S. fishing vessel which occasionally takes on board, on the high seas, and transports to a U. S. port without a monetary consideration, the catch of another U. S. fishing vessel shall not be considered to be engaged in the transportation of freight for hire and shall not be deemed to be used in employment for which not licensed; passed by the Senate May 26; ordered reported July 27 by the *House Subcommittee on Fisheries*.

S. 606 (Bush and Dodd), to construct a shellfisheries research center at Milford, Conn., was reported Aug. 3 by the *House Fisheries Committee*.

Marketing Orders

The conference report on *S. 1643*, the Administration's omnibus farm bill, was approved by the House and Senate Aug. 3 and signed by the President Aug. 8 as P.L. 87-128. It continues to exempt from marketing order authority fruits and vegetables intended for canning or freezing, with the exception of olives, asparagus, grapefruit, cherries, cranberries, and apples produced in California, Michigan, Indiana, Maryland, New Jersey, New York, and the New England states. (The N.C.A. appeared before both the House and Senate Agriculture Committees to request that the canning crops exemption be continued.)

Taxation of Interstate Commerce

H.R. 4363 (Willis) would require the Congress to make a study of "all matters pertaining to the taxation of interstate commerce" by the states, territories, and possessions of the U. S., the District of Columbia, Puerto Rico, or their political or taxing subdivisions; *Judiciary*.

Farm Bill Enacted

The omnibus farm bill, *S. 1643*, was signed by the President on August 8 as P. L. 87-128. For a summary of the bill's provisions affecting the canning industry, see the *INFORMATION LETTER* of August 5, page 221.

The Act extends P. L. 480 for three years, to December 31, 1964.

MSSA Requirements for Canned Foods

Canned Food	Grade	Type	Container Size	Quantity (pounds)	Quantity (cases)
Blueberries, water pack ^a	A or B	I or II	6/10.....	1,480,000	38,093
Catsup ^b	A	I or II	6/10.....	15,738,000	397,834
			24/14-oz. bottle.....	8,985,000	427,905
Tomato juice, single-strength ^b	A		12/No. 3 cyl.....	27,445,000	749,891

^a To be procured by Richmond, Va., region, MSSA.^b To be procured by Oakland region, MSSA.Francis A. Harding Dies;
1931 President of the N.C.A.

Francis A. Harding, 74, former secretary-treasurer, trustee and general manager of the William Underwood Company, died at his home near Boston August 5.

He was President of the N.C.A. in 1931.

Mr. Harding was a graduate of Harvard College and was permanent secretary of the class of 1909. He joined the William Underwood Company in 1909 as sales manager. He served as assistant treasurer from 1910 to 1922, when, at the age of 34, he was formally elected treasurer. He retired as treasurer and general manager in 1953 but continued active on the board of trustees of the company for several more years.

He entered into N.C.A. work in 1924. As a member of a special committee to study advertising, he was influential in reviving an Association advertising campaign on behalf of the industry. During his service as President of the N.C.A., the Association sought protection from serious foreign competition and against increased freight rates.

Mr. Harding served on the N.C.A. Board of Directors and on various committees, including the Finance Committee, of which he was a member more than 25 years.

He was founder of the Maine Sardine Fishermen's Association.

Howard L. Scott

Howard L. Scott, vice president of Pacific American Fisheries, Inc., Beltingham, Wash., died August 3.

He was a member of the N.C.A. Fishery Products Committee from 1945 through 1949.

Canned Foods for School Lunch

CANNED CORN

USDA announced August 10 an offer to buy canned whole kernel or whole grain corn packed during 1961 for use in the National School Lunch Program.

Offers will be considered only on Grade A corn, white or golden, packed in No. 10 cans. Offers must be received by the Fruit and Vegetable Division, Agricultural Marketing Service, USDA Washington 25 D.C., by 4 p.m. EDT August 25 for acceptance by September 1. Delivery will be required during the period September 18 through October 23.

Further details may be obtained from Claude S. Morris of AMS (telephone 202 DU 8-2781).

CANNED GREEN BEANS

USDA announced August 11 the purchase of 482,905 cases of canned green beans in No. 10 cans for the school lunch program. Purchases were made with funds appropriated under the National School Lunch Act.

Vegetables for Processing

The first USDA forecast of production of sweet corn for processing in 1961, based on August 1 conditions, places the crop at a record 1,722,070 tons, 24 percent more than the 1960 production and 23 percent above average.

A record crop of snap beans also is forecast. Prospects improved during July, and the August 1 forecast is for a crop of 465,630 tons.

Tomatoes for processing are forecast at 4,252,650 tons, the largest crop since 1958.

USDA Fruit and Vegetable
Basic Research Laboratory

USDA announced August 9 the establishment of a laboratory for basic research on post harvest physiology of fruits and vegetables. The laboratory is located at the Plant Industry Station, Beltsville, Md., with other laboratories of the Market Quality Research Division, Agricultural Marketing Service.

Investigations of the laboratory are largely biochemical and will be made on plant cells and tissue to determine chemical processes as near the seat of interactions as possible. The research is aimed at developing basic information on physiological changes associated with the ripening and aging that occur in fruits, vegetables, and other plant material after harvest under conditions that may be encountered in marketing, storage, and transportation.

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